



# PUBLIC NOTICE

Federal Communications Commission  
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**DA 03-4109**

**Released: December 29, 2003**

**DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF  
NEHALEM TELEPHONE & TELEGRAPH COMPANY BY NEHALEM  
TELECOMMUNICATIONS, INC.**

**STREAMLINED PLEADING CYCLE ESTABLISHED**

**WC Docket No. 03-255**

On December 12, 2003, Nehalem Telephone & Telegraph Company (NT&T) and Nehalem Telecommunications, Inc. (NTI), pursuant to sections 63.03 and 63.04 of the Commission's rules,<sup>1</sup> requested consent to transfer the telecommunications assets and section 214 authorizations of NT&T to NTI.<sup>2</sup>

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(iii) of the Commission's rules because the proposed transaction would result in the transferee having a market share in the interstate, interexchange market of less than 10 percent; the transferee would provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and the Applicants are incumbent independent local exchange carriers that have, in combination, fewer than two percent of the nation's subscriber lines installed in the aggregate nationwide, and no overlapping or adjacent service areas.<sup>3</sup>

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<sup>1</sup> 47 C.F.R. §§ 63.03, 63.04; *see* 47 U.S.C. § 214.

<sup>2</sup> Applicants are also filing applications for transfer of control associated with authorization for international services and a request for consent to assignment of a maintenance radio license. Any action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

<sup>3</sup> 47 C.F.R. § 63.03(b)(2)(iii); *see* 47 C.F.R. § 63.03(b)(3) ("For purposes of (b)(1) and (2) of this paragraph, the terms 'applicant,' 'carrier,' 'party,' and 'transferee' (and their plural forms) include any affiliates of such entities within the meaning of section 3(1) of the Communications Act of 1934, as amended."); Letter from David L. Nace, Counsel to NTI, to William Dever, Assistant Division Chief, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, WC Docket No. 03-255 at 1-2 (filed Dec. 18, 2003).

NT&T, a corporation, is a rural local exchange carrier serving approximately 3,200 access lines in the state of Oregon. William Lee Dillard, Victoria Dillard, and the Living Trust of Nancy G. Rinehart own approximately 24%, 25%, and 14% respectively of the equity in NT&T. NT&T operates in one exchange (Nehalem Exchange) and its service area is located along the north central Oregon coast and encompasses approximately 196 square miles. NT&T provides local exchange service including custom calling features, digital subscriber line services, Internet access, and resold intrastate, interstate, and international long distance toll services to households and businesses located within its exchange.

NTI, a corporation, is a newly formed, wholly owned subsidiary of Rural Telephone Company (RTC). RTC is a wholly owned subsidiary of Martell Enterprises, Inc (MEI). James R. Martell and Carmela M. Martell each own approximately 31% of the equity in MEI. RTC, either directly or through subsidiaries, provides local exchange telecommunications services to approximately 4,000 customers (access lines) in certain rural areas of Idaho, Nevada, and Washington.

The proposed transaction involves the sale of NT&T's assets to NTI, including all assets related to NT&T's provision of local exchange service to approximately 3,200 access lines, and NT&T's long distance resale operations, which allow customers to place calls to domestic and international points. The Applicants state that no interruption in services to the public will result from this transaction.

The Applicants state that the proposed transaction would serve the public interest because NTI's parent company, RTC, and its principals are experienced in providing local exchange telecommunications service in rural areas. Upon completion of the proposed transaction, the Applicants state that NTI would provide continuous and high-quality local exchange and resold domestic intrastate and interstate telecommunications service as are currently offered in the Nehalem Exchange. Applicants contend that the proposed transaction involves two very small LECs and has no potential to harm the public interest, or to impair competition in any local exchange or long distance toll markets. According to the Applicants, NTI plans no change in the regulated local exchange and exchange access services, rates, and practices of NT&T as a result of the proposed transaction. The Applicants state that service would continue to be managed on a day-to-day basis by local employees, and that NTI would maintain separate accounts for regulated local exchange service.

### **GENERAL INFORMATION**

The transfer of control identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of control application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file **comments within 14 days** and **reply comments within 21 days** of this notice.<sup>4</sup> Unless

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<sup>4</sup> See 47 C.F.R. § 63.03(a).

otherwise notified by the Commission, Applicants are permitted to transfer on the 31<sup>st</sup> day after the date of this notice.<sup>5</sup> Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the subject line "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

**In addition, one copy of each pleading must be sent to each of the following:**

- (1) the Commission's duplicating contractor, Qualex International, 445 12<sup>th</sup> Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: [qualexint@aol.com](mailto:qualexint@aol.com); facsimile: (202) 863-2898; phone: (202) 863-2893;
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: [tracey.wilson-parker@fcc.gov](mailto:tracey.wilson-parker@fcc.gov);

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<sup>5</sup> Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

- (3) Christi Shewman, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C142, Washington, D.C. 20554; e-mail: [christi.shewman@fcc.gov](mailto:christi.shewman@fcc.gov);
- (4) Julie Veach, Competition Policy Division, Wireline Competition Bureau, 445 12<sup>th</sup> Street, S.W., Room 5-C124, Washington, D.C. 20554; e-mail: [julie.veach@fcc.gov](mailto:julie.veach@fcc.gov);
- (5) Cynthia Bryant, Telecommunications Division, International Bureau, 445 12<sup>th</sup> Street, S.W., Room 7-A623, Washington, D.C. 20554; email: [cynthia.bryant@fcc.gov](mailto:cynthia.bryant@fcc.gov); and
- (6) Christopher Killion, Office of General Counsel, 445 12<sup>th</sup> Street, S.W., Room 8-C740, Washington, D.C. 20554; e-mail: [christopher.killion@fcc.gov](mailto:christopher.killion@fcc.gov).

Filings and comments are also available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

For further information, please contact Tracey Wilson at (202) 418-1394 or Christi Shewman at (202) 418-1686.

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